

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 04-4147

United States of America,

Appellee,

v.

Victor Manuel Moreno Servin,
also known as Jose Alfredo Martinez,

Appellant.

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Appeal from the United States
District Court for the
District of Nebraska.

[UNPUBLISHED]

Submitted: October 7, 2005
Filed: October 13, 2005

Before MELLOY, MAGILL, and GRUENDER, Circuit Judges.

PER CURIAM.

Victor Manuel Moreno Servin pleaded guilty to distributing methamphetamine, in violation of 21 U.S.C. § 841(a)(1), and the district court¹ sentenced him to 51 months in prison and 3 years of supervised release. On appeal, his counsel has filed a brief under Anders v. California, 386 U.S. 738 (1967). Counsel argues that the district court erred in determining the drug quantity for which Servin was responsible and sentencing him accordingly.

¹The Honorable Warren K. Urbom, United States District Judge for the District of Nebraska.

We conclude that the district court did not clearly err in finding the drug quantity attributable to Servin. See United States v. Milton, 153 F.3d 891, 898 (8th Cir. 1998) (standard of review), cert. denied, 525 U.S. 1165 (1999). The district court heard live testimony from Servin and an individual to whom he had distributed drugs, and the court's decision to discredit Servin's denials in favor of the other witness's testimony was not clear error. See Anderson v. City of Bessemer City, 470 U.S. 564, 575 (1985) (credibility determinations are virtually never clear error). A conservative drug-quantity estimate drawn from that witness's testimony falls well within the 50-to-200-gram range used to establish Servin's base offense level.

Having reviewed the record independently pursuant to Penson v. Ohio, 488 U.S. 75 (1988), we conclude that there are no nonfrivolous issues for appeal. Accordingly, we affirm the judgment of the district court.
